

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

TEMPLO PENTECOSTES SINAI-BETHESDA,

§

§

§

Plaintiff,

§

§

§

CIVIL ACTION NO. 7:15-CV-192

vs.

§

§

CHURCH MUTUAL INSURANCE COMPANY,

§

§

Defendant.

DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendant Church Mutual Insurance Company (“Church Mutual”), hereby removes the action styled and numbered *Templo Pentecostes Sinai-Bethesda v. Church Mutual Insurance Company*, Cause No. C-0882-15-F, pending in the 332nd Judicial District Court in Hidalgo County, Texas to the United States District Court for the Southern District of Texas, McAllen Division. For the reasons set forth below, removal of the state court action is proper under 28 U.S.C. §§ 1332, 1441, and 1446.

I. THE STATE COURT ACTION

1. On March 2, 2015, Plaintiff Templo Pentecostes Sinai-Bethesda (“TPSB”) filed its Original Petition in the 332nd Judicial District Court in Harris County, Texas – Cause No. C-0882-15-F.

II. CHURCH MUTUAL’S NOTICE OF REMOVAL IS TIMELY

2. Church Mutual was served with the Original Petition and citation on March 27, 2015. Accordingly, Church Mutual files this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b).

III. VENUE IS PROPER

3. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the action has been pending is located in this district.

IV. BASIS FOR REMOVAL JURISDICTION

4. Removal of this action is proper under 28 U.S.C. § 1441 because it is a civil action brought in a state court and the federal courts have original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332. Specifically, removal is proper because there is now, and was at the time this action was filed, complete diversity of citizenship between TPSB and Church Mutual and the amount in controversy exceeds \$75,000 excluding interest and costs.

5. TPSB is church with its principal place of business in Pharr, Hidalgo County, Texas. TPSB is a resident and citizen of Texas for purposes of diversity citizenship.¹

6. Church Mutual is an insurance company incorporated in the State of Wisconsin with its principal place of business located in Merrill, Wisconsin. Church Mutual is a citizen of Wisconsin for purposes of diversity of citizenship. Church Mutual is not a citizen of the State of Texas.

7. Accordingly, there is now, and was at the time this action was filed, complete diversity of citizenship between all Plaintiffs, TPSB, and all Defendants, Church Mutual.

V. AMOUNT IN CONTROVERSY

8. If it is facially apparent that the TPSB's claims exceed the jurisdictional amount, Continental's burden is satisfied.²

9. In its Original Petition, TPSB "seeks monetary relief of over \$200,000, but no

¹ See Exhibit B, TPSB's Original Petition at ¶3.

² *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1999).

more than \$1,000,000.”³

10. Thus, it is facially apparent that TPSB’s claims exceed the jurisdictional minimum of \$75,000.01.

11. Because there is complete diversity among the parties and the amount in controversy requirement is satisfied, this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a). Removal is therefore proper.

VI. COMPLIANCE WITH LOCAL RULE 81

12. Pursuant to Rule 81 of the Local Rules of the Southern District of Texas, Church Mutual is filing this Notice of Removal, accompanied by the following exhibits:

- a. All executed process in the case, attached hereto as **Exhibit A**
- b. TPSB’s Original Petition, attached hereto as **Exhibit B**
- c. Church Mutual’s Original Answer, attached hereto as **Exhibit C**
- d. The state court docket sheet, attached hereto as **Exhibit D**
- e. An index of matters being filed, attached hereto as **Exhibit E**
- f. A list of all counsel of record, including addresses, telephone numbers, and parties represented, attached hereto as **Exhibit F**
- g. Declaration of Chris Roman, attached hereto as **Exhibit G**

VII. CONCLUSION

13. Church Mutual will promptly file a copy of this Notice of Removal with the clerk of the state court where the action is pending.

14. Therefore, Church Mutual hereby provides notice that this action is duly removed.

³ See **Exhibit B**, TPSB’s Original Petition at ¶70; see also **Exhibit G-L**, TPSB’s DTPA Demand Letter dated December 30, 2014, p. 6.

Respectfully submitted,

ZELLE HOFMANN VOELBEL & MASON, LLP

By: /s/ G. Brian Odom
G. Brian Odom
Texas Bar No. 50511840
Southern District Bar No. 24591
bodom@zelle.com
Attorney-in-Charge

Lindsey P. Bruning
Texas Bar No. 24064967
Southern District Bar No. 997691
lbruning@zelle.com

901 Main Street, Suite 4000
Dallas, Texas 75202-3975
Telephone: 214-742-3000
Facsimile: 214-760-8994

**ATTORNEYS FOR DEFENDANT CHURCH
MUTUAL INSURANCE COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Notice of Removal has been served on all the following counsel of record by electronic filing pursuant to the FEDERAL RULES OF CIVIL PROCEDURE on this 24th day of April, 2015

Bill L. Voss
bill.voss@vosslawfirm.com
Scott Hunziker
scott@vosslawfirm.com
Chris Schleiffer
chris@vosslawfirm.com
THE VOSS LAW FIRM, P.C.
26619 Interstate 45 South
The Woodlands, Texas 77380
713-861-0015 – Phone
713-861-0021 – Fax

/s/ G. Brian Odom

Lindsey P. Bruning